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STATE FOR EAP/MLS, DRL, EAP/RSP, AND G/TIP

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TAGS: PHUM PREL KWMN PGOV CB

SUBJECT: WHILE HRR PROVIDES OPPORTUNITY TO FOCUS ON PROBLEMATICO CASE OF CHEA VICHEA, INITIAL OVERALL RGC REACTION DEFENSIVE

REF: A. CAMPBELL-DORSEY EMAIL (03/13/08)

- 1B. 2007 CAMBODIA COUNTRY REPORT ON HUMAN RIGHTS PRACTICES
- 1C. STATE 24302
- 1D. PHNOM PENH 141 - FBI DIRECTOR ROBERT MUELLER'S MEETINGS WITH CAMBODIA PM HUN SEN AND DPM SAR KHENG
- 1E. 06 PHNOM PENH 1404 - PROTESTERS DEMAND REOPENING OF CHEA VICHEA MURDER CASE
- 1F. 04 PHNOM PENH 302 AND PREVIOUS

11. (SBU) Summary: As part of post's dissemination of the 2007 Cambodia Country Report on Human Rights Practices, the Deputy Chief of Mission presented the final report to Secretary of State in the Ministry of Justice Chan Sotheavy.

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Post also sent copies of the report to the Minister of Foreign Affairs, Minister of Justice, and to President of the Cambodian Human Rights Committee Om Yentieng, per the Department's instruction cable on the 2007 Human Rights Report rollout (Ref C). During the meeting with MOJ Secretary of State Chan Sotheavy, the DCM took the

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opportunity to raise the Chea Vichea murder case. Press coverage of the HRR was generally balanced and focused both on areas in which improvements had been noted and areas in which Cambodia's performance continued to be poor. However, the Cambodian Government reacted defensively to the report, with the Ministry of Foreign Affairs releasing a press statement (Ref A) rejecting the HRR's findings, claiming that our sources were only NGOs and opposition parties, and suggesting that the release's timing was politically motivated in advance of Cambodia's July election. End Summary.

12. (SBU) As part of post's dissemination of the 2007 Cambodia Country Report on Human Rights Practices, the Deputy Chief of Mission presented the final report to Ministry of Justice Secretary of State Chan Sotheavy. The DCM expressed her hope that the U.S. Government and the Royal Government of Cambodia can have the same cooperative working relationship on human rights issues as we do on trafficking in persons. Chan Sotheavy was the primary MOJ drafter of Cambodia's recently-issued comprehensive anti-TIP law, an achievement for which the DCM congratulated Chan Sotheavy during the meeting. Chan Sotheavy readily accepted the copy of the report, stating that she will pass it on to the Minister of Justice.

Case of Wrongful Conviction

13. (SBU) The DCM pointed out to Chan Sotheavy that the questionable convictions and imprisonment of two men who are accused of the 2004 killing of labor leader Chea Vichea were included in the HRR yet again this year (sections 1a and 1e of Ref B). The DCM raised the continuing concern about the judicial process used to convict the two individuals, and inquired about the possibility for the case to be reviewed now that the defense lawyers have submitted the case to the Supreme Court. The DCM repeated FBI Director Mueller's offer during his January 31 meeting with Prime Minister Hun Sen (Ref D) that the FBI would be willing to assist in any way possible to resolve still-lingering doubts about the investigation into the murder. For example, an eyewitness to the murder is said to reside in the U.S. and her testimony was not considered during the Appeals Court hearing because she was in the U.S. Mueller offered that the FBI could depose the eyewitness in the U.S. and have that information made available to the Cambodian courts. (Note: Mueller's offer was met with silence during the meeting with PM Hun Sen; the topic was dropped without resolution or RGC comment.)

End note.) The DCM pointed out to Chan Sotheavy that Minister of Justice Ang Vong Vathana attended the meeting with FBI Director Mueller.

Supreme Court has Limited Role

14. (SBU) Chan Sotheavy confirmed that defense lawyers of the two convicted men, Sok Sam Oeon and Born Samnang have submitted the case to the Supreme Court. However, one of Chan Sotheavy's aides attending the meeting expressed doubt that the Supreme Court would admit new evidence or testimony. He stated that the role of the Cambodian Supreme Court is to decide whether the lower court made a proper decision under the law, not to review new witness testimony if it had not been raised with a lower court. The aide repeated Chan Sotheavy's statement that the defense lawyers could certainly try to do so, but expressed his understanding that such

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evidence may be too late in coming.

Comment

15. (SBU) While the submission of new witness testimony has thus far been considered to be incompatible with Cambodian Supreme Court procedures, if the Cambodians continue to feel enough pressure on the issue and decide to pursue a resolution, the FBI offer could be seized as a pretext to do so. In the meantime, post continues to urge the RGC that it would be better to leave the murder case open and to continue investigation than to risk the continued conviction of innocent people. If nothing else, the presentation of the HRR to the RGC provided us another opportunity to raise the case with government officials. Sok Sam Oeon and Born Samnang have been behind bars since 2004. Their Supreme Court hearing date has not yet been set. If the Supreme Court upholds the Phnom Penh Court and Appeals Court decisions that the two men are guilty, the two still may be granted a Royal pardon -- something that human rights NGOs have been advocating since early on in the court process.

16. (SBU) The Ministry of Foreign Affairs (MFA) press release is disappointing, but highlights again how focused the government is on the upcoming election. We will write to the MFA clarifying some of the inaccuracies contained in the press release and will pursue our plans to engage both the MFA and the RGC's Human Rights bodies in a constructive dialogue, using the HRR as a starting point.

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